

Department of Human Services
NOTICE OF PUBLIC HEARING TO ADOPT RULES

A public hearing will be held in Room 413, 4th floor, State Capitol, Pierre, South Dakota, on Tuesday, December 11, 2007 from 10 a.m. to 12 p.m., to consider the adoption and amendment of proposed rules numbered

Chapter 46:10:05 and new chapter 46:10:07.

For rules pertaining to chapter 46:10:05: The effect of the proposed rules will add definitions, changes the term of consumer to participant throughout the chapter, clarifies the differences between the local family support program and the statewide family support program in the areas of: supports and services, eligibility, prior authorization of supports and services, and non-covered services. New rules are added regarding funding availability and the organized health care delivery system (OHCDS). The rules on the local family support program review and the appeal of revocation of provider status are repealed. It expands the approval time of the local family support plan from 30 to 45 days. It reduces the number of days for determining eligibility for the local family support program from 60 to 45 days. It adds to the list of non-covered expenses those services, items or supplies eligible for payment under another payment source. It clarifies the language regarding statement of deficiencies and plan of correction updating the language and adding the OHCDS as the responsibility party. It clarifies the discontinuation of services adding eligibility criteria and expanding the notice to include any reason for discontinuation. Language is added that the department will not pay for any legal fees for representing the provider, participant or their representative in an appeal and adds a 10 day requirement to request a continuance of the hearing on appeal.

The reason these rules are being proposed to update the current language and amend the current rules is to comply with federal regulations.

For rules pertaining to chapter 46:10:07: The effect of these rules will provide definition of terms used in the chapter, define the scope and authority, provide the criteria for designation as an OHCDS, list the responsibilities of an OHCDS, provides requirements for subcontracts, provides the criteria for designation as an independent contractor providing service coordination, lists the qualifications and responsibilities of an independent contractor providing service coordination, provides the criteria for designation as an independent contractor, lists the qualifications and responsibilities of an independent contractor, provides requirements for the submission of incident reports to the division and when the report shall be submitted, provides that a participant has the right to choose who delivers services to the participant, defines an agency with choice model, clarifies that eligibility for this program is set forth under the Department of Social Services administrative rules, describes the notification of services, provides for a waiting list and describes the priority status, provides a description of services, includes requirements for the individualized service plan (ISP), the annual ISP meeting and any review or modifications, describes budget update requirements, provides requirements regarding the participant records including confidentiality, transfer, and retention of the records. It provides requirements for the review of an OHCDS or independent contractor, statement of deficiencies, plan of correction and revocation of the provider agreement. It outlines the rights of the participants or their representative, it requires policies for any highly restrictive procedures, it provides for a Human Rights Committee, describes the composition of the committee and human rights procedures. It provides requirements for any rights restriction, right of appeal or hearing.

The reason these rules are being proposed is to comply with federal regulation.

Persons interested in presenting data, statements, opinions and arguments for or against the proposed rules may do so by appearing in person at the hearing on December 11, 2007, or by sending them to the Department of Human Services, Hillview Plaza, E. Highway 34, c/o 500 E. Capitol, Pierre, South Dakota 57501-5070. C/o Velda Bartel, Administrative Rules Coordinator. **Material sent by mail must reach the Department of Human Services by December 21, 2007, to be considered.**

After the hearing, the Department of Human Services will consider all written and oral comments it receives on the proposed rules. The Department may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the above-mentioned office within 48 hours of the public hearing if you have special needs for which this agency will need to make arrangements. The telephone number for making special arrangements is (605) 773-5990 or (605) 773-6412 TTY.

Copies of the proposed rules may be obtained without charge from:

Department of Human Services
Hillview Plaza, East Hwy. 34
C/o 500 East Capitol
Pierre, South Dakota 57501-5070

Or downloaded from the SD Division of Developmental Disabilities' website at: www.state.sd.us/dhs/dd/